MT LEGISLATIVE HISTORY

Chapter 524 1925

Bill H 633 S _____ Original bill & hist. ___C Bill is missing

H. Committee on Labor & Employment Relations S. Committee on Judiciary

Hearing Date(s)	Feb 21	✓C	Hearing Date(s)	Mar 19	✓C
	Feb 24	✓C		Mar 24	✓C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	Feb 24	✓C		Mar 24	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LABOR & EMPLOYMENT RELA. COMMITTEE

44th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
458	Determination of reasonable classification & grade level shall be a negotiable item under collective bargaining.	2/6	Gilligan Johnson	Referred to State Admin.		2/19
615	Provide that police in 1st & 2nd class cities receive minimum wage of $750 a month.	2/6	Jack Moore Finley	2/24 2/25	DO PASS	2/25
630	Authorize employers to hire students who are not union members during summer vacation months.	2/6	Fabrega Seifert	2/14 2/24	(subcommittee) TABLE INDEFINITELY (referred to 2nd reading)	2/25
632	Require employers to allow employees to obtain a hot meal after working 8-1/2 hours.	2/6	Dassinger Brand	2/21	DO PASS	2/21
633	Revise laws relating to discrimination in employment, public accommodation; education, real property law & Human Rights Commission.	2/6	Jack Moore Kimble	2/21 2/24	AS AMENDED DO PASS	2/24
451	Provide grievance procedure before Board of Personnel Appeals for employees of Highway Dept.	2/5	Johnson McKittrick	Referred to State Admin.		2/19

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS
HOUSE OF REPRESENTATIVES
February 21, 1975

A meeting of the Labor & Employment Relations Committee was held on Friday, on the above date, at 10:30 a.m. in Room 108 of the Capitol Building, with Chairman Kimble presiding. All members were present.

The following bills were heard in this order: HB 633
HB 632
HJR 39
HB 612
HB 216

HB 633--SPONSOR: James Moore, district 18, said this bill was an internal correction to the Human Rights Commission, by providing them with teeth to insure equality to all persons. The bill was amended to include the marital status of a person in its provisions. It gives the commission more legal and subpeona powers, protecting the employee and employer. Proponent Rep. Polly Holmes, district 67, said that the original bill did not give enough protection to the employer, and said that this bill corrects that. Margaret DAvis, and Charlotte Posey, MT League of Women Voters, supported the bill.

Opponent Tony Softich, Labor Standards Division, said his main objection to the bill is the deletion of the term "department", and inserting "commission" or "staff". This would take away the checks and balances system, by not making the the Commission directly responsible to the Department of Labor.He related this bill with another similar bill, HB 602 (see exhibit I for testimony on HB 602). Softich requested amendments be made to reinsert "department" to mean the Department of Labor, where "staff" or "commission" appears to avoid complete autonomy. Elsie McGarvey, Human Rights commission, agreed with Mr. Softich, as far as the biases are concerned, but felt this autonomy was needed to retain accountability, and felt this change was needed because of the confusion in their judicial function. Sid Smith, Dept. of Labor & Industry, said he had no objections to the amendments.

In closing, Moore said that he would object to the amendments, as the intent of the bill is to give the Human Rights Commission enough autonomy to reduce discrimination where needed. They would not have a prosecuting arm with someone else controlling the purse strings. Softich commented that the bill conflicted with HB 602.

HB 632--SPONSOR: Ernie Dassinger, district 50, said that it would only be common courtesy to allow an employee to have a hot meal after 8-1/2 hours of work. Although this a collective bargaining item, nothing has been done, therefore the reason for this bill. The bill refers to those employers who ignore their employees, and regard them as 2nd class citizens. Larry Huss, MT Contractors Assn., submitted two amendments to page 1, section 1, line 10,

HB 612--SPONSOR: Duane Johnson, district 97, said that this was just a clean-up bill to clear up a misunderstanding in the law, to allow union shop agreements between public employers and employees. He did not feel that they intended to preclude public employees and employers to bargain, and submitted an amendment to page 2, line 13, following "organization", by inserting ", except as provided in section 59-1603(5)". This bill would circumvent pending law suits.

Proponent Ernie Post, AFL-CIO, said that there was nothing magic about the bill, that they would still have to negotiate across the table for union shop agreements. Don Judge, ASFMCE, submitted exhibit III in support. Tom Schneider, MT Public Employees Assn., and Lonny Mayer, Retail Clerks Union, both supported the bill.

HB 216--SPONSOR: Robert Kelly, district 86, said this bill would bring those few renegades in the restaurant, bars and taverns business in complaince with the law. Proponent Ernie Post, AFL-CIO, said this would permit the Employment Security Division to have their taxes paid in the form of a bond, where, if the business for some reason does not pay the employment taxes for the unemployment compensation fund, this amount may be taken from the bond.

Under discussion, Ellis asked why they picked on these industries, and Post replied that there are other legislations which include th construction industry, and at the present, the hotel industry is the only business which has bonding provisions. Ellerd asked where the bonds came from, and Post replied that they were based on the average monthly wage paid by the business, and is contracted with the bondsman. The employer is required to post the bond, and said these bonds would restrict those fly-by-night businesses.

There being no further testimony, the committee went into executive discussion.

HB 260--KELLY MOVED HB 260 DO PASS, SECONDED BY JOHNSON. MOTION CARRIED UNANIMOUSLY.

HB 612--KELLY MOVED HB 612 AS AMENDED DO PASS, SECONDED BY FEDERICO. The amendments provided for the exclusion of those persons with religious committments. MOTION CARRIED UNANIMOUSLY.

HB 632--DASSINGER MOVED HB 632 DO PASS, SECONDED BY JOHNSON. Federico thought that they should amend line 10 to refer only to non-salaried employees. Johnson felt that they may have some problem in distinquishing between the two. MOTION CARRIED WITH ALL IN FAVOR EXCEPT BABCOCK, ELLERD AND GURTHRIE OPPOSED.

HB 633--Kimble explained that this bill would allow the Human Rights Commission to have an independent status, whether it is placed under the Labor department or Intergovernmental Relations. The administrator would be responsible to that particular department.

FEDERICO MOVED HB 633 DO PASS, SECONDED BY TRAVIS.

Exhibit 1
2-21-75

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM TONY SOFTICH, ADMINISTRATOR OF THE LABOR STANDARDS DIVISION OF THE DEPARTMENT OF LABOR AND INDUSTRY.

HOUSE BILL 633 REVISING THE LAWS RELATING TO DISCRIMINATION IS DIFFICULT TO TESTIFY ON WITHOUT TAKING INTO CONSIDERATION HOUSE BILL 602.

I AM IN ACCORD WITH ALMOST ALL THE AMENDMENTS TO HOUSE BILL 633, AS MOST ARE HOUSEKEEPING AMENDMENTS, WITH THE EXCEPTION WHERE THE WORD DEPARTMENT IS DELETED AND SUBSTITUTED BY THE WORD STAFF.

I WOULD CALL YOU ATTENTION TO PAGE 4 LINE 22, SUB PARAGRAPH (15) DEFINING THE WORD STAFF OR COMMISSION. STAFF MEANS THE STAFF OF THE HUMAN RIGHTS COMMISSION.

FOR THE SAKE OF BREVITY, WITH YOUR PERMISSION I WOULD LIKE TO READ THE TESTIMONY I PRESENTED ON HOUSE BILL 602 SO THAT YOU MAY MORE READILY UNDERSTAND MY OBJECTIONS, AND HOW HOUSE BILL 633 RELATES TO HOUSE BILL 602.

I CANNOT SEE HOW ANYONE CAN TRUTHFULLY TESTIFY ON HOUSE BILL 633 WITHOUT CONSIDERING THE IMPACT OF HOUSE BILL 602.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: I AM TONY SOFTICH, ADMINISTRATOR OF THE LABOR STANDARDS DIVISION OF THE DEPARTMENT OF LABOR AND INDUSTRY.

I FIND MYSELF IN SOMEWHAT OF A STRANGE POSITION, HAVING APPEARED IN FIVE (5) PREVIOUS LEGISLATIVE SESSIONS BEFORE VARIOUS COMMITTEES, AND ALWAYS AS A PROPONENT. THIS IS MY FIRST APPEARANCE AS AN OPPONENT, THOUGH I DON'T REALLY FEEL I AM.

I HOPE YOU WILL BEAR WITH ME WHEN I MAKE REFERENCE TO ANOTHER BILL AS THEY ARE SO CLOSELY RELATED, THAT REMARKS CANNOT BE CONFINED TO JUST THIS BILL.

I HAVE NO QUALMS ABOUT TRANSFERRING THE HUMAN RIGHTS COMMISSIONER TO ANOTHER DEPARTMENT, IN FACT I ENCOURAGE IT, AS OUR DISCRIMINATION LAWS ARE SO BROAD THAT THE CIVIL RIGHTS ACT OF THE NATION DOESN'T COVER ALL THE ASPECTS OUR LAW DOES, AND PERHAPS SOME OTHER DEPARTMENT HAS MORE RESOURCES THEY COULD DRAW UPON FOR EXPERTISE, OTHER THAN WHAT WE HAVE IN THE FIELD OF LABOR.

FROM THE BOTTOM OF MY HEART I FEEL OUR DISCRIMINATION LAW IS ONE OF THE MOST IMPORTANT PIECES OF LEGISLATION THE STATE OF MONTANA HAS EVER ENACTED, AND WILL BECOME A LANDMARK IN THE HISTORY OF MONTANA.

HAVING BEEN BORN OF IMMIGRANT PARENTS, IN MY YOUTH I TOO SUFFERED DISCRIMINATION, BOTH IN RELIGION AND MY ETHNIC BACKGROUND, AND YES, BECAUSE OF MY POLITICAL BELIEFS.

I CAN VIVIDLY RECALL WHEN CORPORATE INTERESTS WOULD EMPLOY PERSONS OF MY OWN NATIONALITY TO COME INTO OUR HOMES AND TELL OUR PARENTS HOW THEY HAD BETTER VOTE OR THERE WOULD BE NO JOBS FOR THEM.

I DIDN'T READ ABOUT DISCRIMINATION, I LIVED IT.

WHY I OPPOSE THIS BILL IS THAT, IN MY OPINION, IT WILL CREATE A NEW DEPARTMENT WITH NO CHECKS OR COUNTER-BALANCES.

I BELIEVE OUR LAW AS PRESENTLY WRITTEN IS A GOOD LAW, AND WITH A FEW CORRECTIONS, SHOULD BE SOLELY ENFORCED BY THE HUMAN RIGHTS BUREAU CLEAR THROUGH THE POINT OF CONCILIATION EFFORTS, AND UPON THE FAILURE AT THAT POINT, THE HUMAN RIGHTS COMMISSION WOULD TAKE OVER AND EMPLOY THEIR OWN HEARING OFFICER, AND WHATEVER OTHER PERSONNEL THEY REQUIRE IN THEIR HEARINGS PROCEDURES.

THIS BILL AS I READ IT, TAKES OVER FULL CONTROL OF THE HUMAN RIGHTS BUREAU.

IT SETS THE RULES, THE REGULATIONS, THE FUNCTIONS OF THE BUREAU, PICKS THE PERSONNEL THE BUREAU IS TO OPERATE WITH; AND BECOMES THE JUDGE AND JURY, AND BY ITS VERY ESSENCE, CANNOT HELP BUT BE BIASED BEFORE IT IS EVER PRESENTED A CASE TO HEAR.

UNDER THESE CIRCUMSTANCES IT IS VERY DUBIOUS IF ANY DETERMINATION MADE BY THE COMMISSION WOULD BE UPHELD BY JUDICIAL REVIEW.

THIS BILL AS WRITTEN LEAVES US EXPOSED AT SOME FUTURE TIME TO THE CIRCUMSTANCES WE JUST RECENTLY FOUND OURSELVES IN, IN WORKMEN'S COMPENSATION.

I WOULD RECOMMEND A DO NOT PASS.

NAME MARGARET S. DAVIS Bill No. HB635

ADDRESS 917 HARRISON, HELENA Date 21 FEB 75

WHOM DO YOU REPRESENT? MT LEAGUE OF WOMEN VOTERS

SUPPORT + OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Tightens up operating procedures for Human Rights Commission and its staff.

NAME Jan Bloom Bill No. H.B. 633

ADDRESS 912 Plaza Date 2/21/75

WHOM DO YOU REPRESENT? individual citizen

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: I serve as President of the Mental Health Assn. of Mt., and Legislative liaison for the Mt. Assn. of Churches, but neither group has studied and taken a position on HB 633. Both groups serve as advocates for human rights and espouse the concepts set forth in HB 633. Since I cannot express an official position on HB 633 for either association, I support the bill as an individual citizen.

NAME Barbara Bennetts Lynch Bill No. 633

ADDRESS Helena Date

WHOM DO YOU REPRESENT? Myself

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am particularly interested in seeing "MARITAL STATUS" added to the list of other discriminations in the Human Rights Act. I am one of the sponsors of the original act & we were remiss in not including it in the first place.

NAME Tom Schneider Bill No. HB 653

ADDRESS Box 1184 Date _____

WHOM DO YOU REPRESENT? MCEA

SUPPORT XX OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I would object to amending the Dept. of Labor back in - in place of staff & commission —

SECONDED BY KELLY, MOTION CARRIED UNANIMOUSLY.

FEDERICO MOVED HB 450 AS AMENDED DO PASS, SECONDED BY KELLY. MOTION CARRIED WITH ALL IN FAVOR EXCEPT ELLERD, BABCOCK, GUTHRIE, AND SIVERTSEN OPPOSED.

HB 234--Sivertsen submitted amendments for a new schedule of placement fees for private employment agencies, and also an amendment mandating that any complaints filed shall be sent to that private agency involved, or to the MT Private Employment Agency Assn. He said that many of the agencies found out at a later date that these complaints had been filed, but knew nothing of them at the time of the complaint (see exhibit VII for amendments).

SIVERTSEN MOVED HIS AMENDMENTS DO PASS, SECONDED BY ELLIS. MOTION CARRIED WITH ALL IN FAVOR EXCEPT KELLY OPPOSED.

SIVERTSEN MOVED HB 234 AS AMENDED DO PASS, SECONDED BY ELLIS. Sivertsen said he conferred with Rep. Mular, sponsor, the labor union representatives, and Bob Helding on the amendments. He felt that the bill was workable, by not putting any agency out of business, and takes away some of the discrimination. MOTION CARRIED WITH ALL IN FAVOR EXCEPT BABCOCK AND KELLY OPPOSED.

HB 399--FEDERICO MOVED AMENDMENTS DO PASS, SECONDED BY MAGONE. These are the amendments suggested by Rep. Robbins, sponsor (see exhibit VIII). MOTION CARRIED UNANIMOUSLY.

FEDERICO MOVED HB 399 AS AMENDED DO PASS, SECONDED BY DASSINGER. MOTION CARRIED UNANIMOUSLY.

HB 573--BABCOCK MOVED HB 573 DO PASS.

BAETH MOVED A SUBSTITUTE MOTION HB 573 DO NOT PASS. MOTION CARRIED WITH ELLERD, BABCOCK, ELLIS, SIVERTSEN AND GUTHRIE OPPOSED.

HB 633--Baeth submitted amendments to take out the word "staff", and re-emphasizing "department" where referring to the Department of Labor.

BAETH MOVED AMENDMENTS DO PASS, SECONDED BY MAGONE. MOTION CARRIED UNANIMOUSLY.

KELLY MOVED HB 633 AS AMENDED DO PASS, SECONDED BY DASSINGER. MOTION CARRIED WITH ALL IN FAVOR EXCEPT ELLERD, BABCOCK, AND SIVERTSEN OPPOSED.

There being no further business the meeting was adjourned that evening on adjournment of the Committee of the Whole meeting.

Gary Kimble

GARY N. KIMBLE, Chairman

Gloria Wong

Gloria Wong, Secretary

~~44th~~ LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

~~HOUSE~~ BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
528	3/7/75	3/17/75	3/25/75					3/25/75	
528	3/29/75	4/1/75	4/2/75					4/1/75	
531	2/28/75	3/12/75	3/13/75					3/12/75	
555	2/26/75	3/17/75	3/18/75					3/17/75	
560	2/28/75	3/15/75	passed until the 75th day						
567	2/28/75	3/13/75	3/14/75					3/13/75	
571	2/22/75	3/17/75	3/18/75					3/17/75	
586	2/28/75	3/17/75	3/18/75					3/17/75	
594	3/4/75	3/17/75	3/20/75						3/19/75
602	3/11/75	3/19/75	3/25/75					3/19/75	
605	2/27/75	3/13/75	die in committee on a tie vote						
613	2/28/75	3/12/75	3/24/75					3/21/75	
620	2/28/75	3/7/75	3/19/75				3/18/75		
620	3/22/75	3/25/75	3/25/75					3/25/75	
633	3/11/75	3/19/75	3/26/75					3/24/75	
637	3/7/75	3/13/75	3/14/75					3/14/75	
640	3/4/75	3/15/75	3/18/75						3/17/75

[illegible] separate sheet for Senate House Bills and Resolutions

MINUTES OF THE MEETING
SENATE JUDICIARY COMMITTEE
March 19, 1975

The meeting was called to order by Senator Towe, Chairman, at 9:37 A.M. in Room 442 of the Capitol Building.

The following bills were heard: HB 275, HB 633, HB 251, HB 183, HB 140, HB 211, HB 602

HB 275 -- Representative W. Jay Fabrega, District 44, and sponsor of the bill, pointed out the bill has a direct relationship with HB 10 and attempts to define the rights of fathers regarding illegitimate children and adoption.

Bob Goff, Attorney, Great Falls, presented some suggested amendments to the committee and offered his services and assistance as he primarily drafted the bill.

HB 211 -- Representative Peter Gilligan, District 38, and sponsor of the bill, stated the bill limits the liability of sheriffs in respect to service of process and levy of attachment. It attempts to provide that the sheriff does not have to pay for storage of property during court proceedings.

HB 251 -- Captain Tooley, Montana Highway Patrol, spoke of the bill, respesenting the sponsor, Representative Seifert, District 26. He stated the bill is directly related to HB 252 and provides for a point total for driving while a habitual traffic offender.

HB 140 -- Representative Earl Lory, District 99 and sponsor of the bill, stated the purpose of the bill is to increase fees and mileage payable to sheriffs for service of process. He presented a letter from Sheriff Moe, Missoula (attached).

Dean Zinnecker, Executive Director, of the Montana Association of Counties, stated the General Fund now bears that expense and this bill would ease that burden.

HB 602 & HB 633 -- In the interest of time, HB 602 and HB 633 were heard together.

Representative Polly Holmes, District 67, and sponsor of HB 602, stated the bill is a housekeeping bill as a result of action last session. It takes care of a great many details and will be attached to the Dept. of Labor for administrative purposes only.

HB 602 -- & HB 633

Representative Moore, District 18 and sponsor of HB 633, stated that a confusion existed in the House when they tried to attach the Human Rights Commission to Intergovernmental Relations so they solved the problem by making the Commission autonomous and left in the Department of Labor. He suggested HB 633 be returned to its original language as it was approved by the Governor's office, Human Rights Commission and Intergovernmental Relations.

Representative Geraldine Travis, District 43, as a member of the Montana Advisory Council of the U. S. Civil Rights Commission, urged support of both bills.

Virginia Jellison, representing the Governor's Advisory Council on Poverty, presented her written testimony to the committee (attached).

Pat Gilfeather, as a former Senator, carried the bill because it dealt with discrimination to the state. He stated he felt the Human Rights Commission should be autonomous and not be attached to the Labor Department as there could be problems in civil rights in that department as well as any other.

Gaye Ashton, representing the Montana Mental Health Association, stated she feels the Commission is vital and its effectiveness is guaranteed by passage of the bills.

Margaret Davis, representing the Montana League of Women Voters, stated her support of the bills. She would like to see HB 633 returned to its original status and the autonomy in HB 602 preserved.

Lynn Scott, representing the Helena Political Caucus, supported the bills.

Jan Brown, representing the Montana Association of Churches, stated her support, noting the bills clarify and make the job easier to do.

Dave Fuller, a member of the Montana Human Rights Commission, speaking on behalf of the five members of the commission, stated their unanimous support of HB 633 in its original form. He stated there is a united concern with the issues in HB 602 as there is confusion at present with hiring staff. He stated he personally supports HB 602.

Ron Richards, Director of Intergovernmental Relation, felt it is inappropriate to put the Human Rights Commission into IGR. He supports the current language of HB 602.

Jan Gerke, representing the Women's Lobby, stated she supported the testimony of Representative Holmes & Moore.

HB 602 -- Teresa Hanaway, representing the Indian Commission
& on Alcohol and Drug Abuse, supports the bill because it
HB 633 helps at the people level.

Representative Moore, in closing, asked for support of appropriations for the Commission as their appropriations had been cut by the House. Their staff has been cut to the Director, an Attorney, and a Secretary. They have no investigators and their caseloads have doubled in recent weeks.

HB 183 -- The Committee decided to make a change in the bill so it will go to conference committee.

The public hearing closed and the Committee went into Executive Session.

EXECUTIVE SESSION

Representative Moore updated the committee on the status of the codification bills.

HB 211 -- SENATOR DRAKE MOVED THAT HB 211 BE NOT CONCURRED IN. THE MOTION CARRIED ON A ROLL CALL VOTE WITH SENATORS GREELY AND WARDEN VOTING NO.

There being no further business, the meeting adjourned to reconvene the evening of March 19, 1975.

Thomas E. Towe

Thomas E. Towe, Chairman

ROLL CALL

Judiciary COMMITTEE

44th
~~SECOND HALF~~ - ~~43rd~~ LEGISLATIVE SESSION 1975 Date 3/19/75

NAME	PRESENT	ABSENT	EXCUSED
Thomas E. Towe	X		
Joe R. Roberts	X		
V. E. Cetrone	X		
Margaret S. Warden	X		
Robert J. Brown	X		
Glen L. Drake	X		
Jean A. Turnage			
Michael Greely	X		

Each day attach to minutes

MONTANA POVERTY ADVISORY COUNCIL
DEPARTMENT OF INTERGOVERNMENTAL RELATIONS
1424 Ninth Avenue
HELENA, MONTANA 59601

3/19

Mr. Chairman, Members of the
Senate Judiciary Committee:

My name is Virginia Jellison. I appear before you as a representative and member of the Montana Poverty Advisory Council. Our Council is composed of representatives of the seven major state low-income and minority organizations. These organizations are: the Montana State Low-Income Organization, the Montana United Indian Association, the Montana Inter-Tribal Policy Board, the Montana State Welfare Rights Organization, the Mexican-American Council of Montana, the Montana Migrant Council and the Senior Citizens Association. The Council, which is attached to the Department of Intergovernmental Relations and whose members are appointed by the Governor, is charged with insuring low-income and minority input into state government decisions that effect their lives. The Montana Poverty Advisory Council supports both House Bill 602 and 633 with certain amendments aimed at strengthening their original intents.

The original purpose of House Bill 602 was to insure that no potential for a conflict of interest would exist between the Human Rights Commission and the Department in which the commission was placed. Any department of state government might be subject to a complaint that it has violated the Human Rights Act. Therefore, there is a potential conflict of interest in having any Department control the staff that investigates complaints or the money that is used to investigate complaints or hear contested cases. This autonomy is basic if the Human Rights Commission is going to do the job it

was originally intended to accomplish.

Recently the House has cut back on the appropriations necessary for the commission to accomplish its purpose. The Montana Poverty Advisory Council would hope that the State Senate would increase the amount of money appropriated to insure that the Human Rights Commission would be adequately staffed and properly funded to cover the costs of housekeeping (bookkeeping, printing, rent, etc...) necessary to insure its autonomy. If increased appropriations are not possible, we would hope that this committee would consider amending the bill so as to insure that the housekeeping costs are provided by the Department of Labor.

The Montana Poverty Advisory Council also supports House Bill 633. This bill would forbid discrimination based on marital status, allow a complaint to be filed on behalf of a person discriminated against and insure that people cooperating with the Human Rights Commission would not be fired or blacklisted. These are essential tools for the commission to have and will insure the success of its goals. However, the Montana Poverty Advisory Council is concerned about a change in the bill made in the House. Originally, House Bill 633 removed from the Human Rights Act all language about the State Department of Labor and substituted language about the staff of the Human Rights Commission. Since staff was defined as the staff of the Human Rights Commission and no reference was made in the bill as to who would hire the staff for the commission, no conflicts existed between HB 633 and 602. As amended in the House, House Bill 633's references to the staff of the Human Rights Commission were removed and replaced with language referring to the State Department of Labor. It is the opinion of the Montana Poverty Advisory Council that as amended House Bill

633 conflicts with House Bill 602 and threatens the vitally needed autonomy of the Human Rights Commission. We, therefore, respectfully request that House Bill 633 be amended to remove reference to the State Department of Labor and return to the original language about the Commission staff.

Thank you.

Virginia Jellison

Virginia Jellison

NAME: Jan Clarke DATE: 3/19/75

ADDRESS: 1014 Cherry

PHONE: 443-3128

REPRESENTING WHOM? Women's Lobby, Inc.

APPEARING ON WHICH PROPOSAL: HB 633

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: Necessary to implement anti discriminatory laws already on the books

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Margaret S. Davis DATE: 19 Mar 75

ADDRESS: 917 Harrison Helena

PHONE: 443-3487

REPRESENTING WHOM? Mt. League of Women Voters

APPEARING ON WHICH PROPOSAL: HB 633

DO YOU: SUPPORT? X AMEND? X OPPOSE?

COMMENTS: The League supports the inclusion of marital status, mental handicap & age as potentially discriminatory qualifications in HB 633. We would like to see the words "commission" "staff" restored where appropriate. HB 633 clarifies present Montana law in the Human Rights area.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Lynne G. Scott DATE: March 19, 1975

ADDRESS: 314 N. California, Helena

PHONE: 443-5345

REPRESENTING WHOM? Helena Women's Political Caucus

APPEARING ON WHICH PROPOSAL: 633

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: It is necessary to provide the means to implement Montana's anti-discrimination laws.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

MINUTES OF THE MEETING
Senate Judiciary Committee
March 24, 1975

The meeting was called to order by Senator Towe, Chairman, at 9:50 a.m. in Room 442 of Capitol Building.

The following bills were discussed: HB 633
HB 670

HB 633 Senator Drake moved to amend the bill on page 1, line 17; page 7, lines 16, 24, 25; page 8, lines 1, 2, 10, 11, 14, 18, 19, 21, 24, and 25; page 9, lines 3, 4, 10, 11 and 19; page 10, lines 2, 4, and 5; and page 12, line 19. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATOR ROBERTS ABSENT.

Senator Drake moved to amend the bill on page 2, line 13 & 14; page 4 and 5, lines 25 and 1; page 14, lines 8, 11, 12 and 14. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATOR ROBERTS ABSENT.

Senator Drake moved to amend the bill on page 15, lines 9, 17, and 18; page 16, line 4, page 17, lines 12, 14, and 20; page 18, line 1 and 2, and page 20, line 16. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATOR ROBERTS ABSENT.

Senator Cetrone moved to amend the bill on page 13, line 7. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATOR ROBERTS ABSENT.

Senator Turnage moved HB 633 be concurred in as amended. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATOR ROBERTS ABSENT.

HB 670 Senator Greely moved to amend the bill in the title, line 8, 10, and 11; page 3, line 22 and 23 through 25; page 4, section 1 and section 2. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATORS BROWN AND ROBERTS ABSENT.

Senator Towe moved HB 670 be concurred in as amended. THE MOTION CARRIED ON A ROLL CALL VOTE WITH SENATOR'S DRAKE AND TURNAGE VOTING NO AND SENATORS BROWN AND ROBERTS ABSENT.

There being no further business, the meeting adjourned to reconvene March 25 at 9:30 a.m.

Thomas E. Towe
Chairman

ROLL CALL

Judiciary COMMITTEE

~~SECOND HALF~~ 44th ~~43rd~~ LEGISLATIVE SESSION 1975 Date 3/24/75

NAME	PRESENT	ABSENT	EXCUSED
Thomas E. Towe	X		
Joe R. Roberts		X	X
V. E. Cetrone	X		
Margaret S. Warden	X		
Robert J. Brown	X		
Glen L. Drake	X		
Jean A. Turnage	X		
Michael Greely	X		

SENATE COMMITTEE JUDICIARY

Date 3/24/75 House Bill No. 633 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS		
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Jill Robyans
Secretary

Thomas E. Towe
Chairman

Motion: My Senator Drake to amend page 1, page 7, page 8, page 9, page 10, and page 12. (see attached committee report)

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 3/24/75 House Bill No. 633 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS		
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Jill Robyns
Secretary

Thomas E. Towe
Chairman

Motion: by Senator Drake to amend page 2, page 4, page 5, page 14, (see attached committee report)

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 3/24/75 House Bill No. 633 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS		
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Jill Rahyanns
Secretary

Thomas E Towe
Chairman

Motion: by Senator Drake to amend page 15, page 16, page 17, page 18, and page 20. (see attached committee report)

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 3/4/75 House Bill No. 633 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS		
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	

Jill Rabyporn
Secretary

Thomas E. Towe (JR)
Chairman

Motion: by Senator Cetrone to amend page 13, line 7. (see attached committee report)

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 3/21/75 House Bill No. 633 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS		
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	X	
	X	

Jill Robyson
Secretary

Thomas E. Towe
Chairman

Motion: by Senator Turnage that HB 633 by concurred in as amended.

(include enough information on motion--put with yellow copy of committee report.)

I AM TONY SOFTICH, ADMINISTRATOR OF THE LABOR STANDARDS DIVISION AND AM APPEARING IN SUPPORT OF S.B. 697.

I SHALL CONFINE MY REMARKS TO ONLY CERTAIN ASPECTS OF THIS LEGISLATION, AS THERE ARE OTHERS PRESENT TO TESTIFY ON OTHER PORTIONS OF THE BILL, HOWEVER I WILL RESPOND TO ANY QUESTIONS.

THE U. S. CIVIL RIGHTS ACT OF 1964 HAD BEEN AMENDED IN 1972 EXTENDING THE COVERAGE TO ALL SUB-DIVISIONS OF GOVERNMENT AND EMPLOYERS OF FIFTEEN (15) OR MORE EMPLOYEES.

OUR STATE STATUTES ON DISCRIMINATION DO NOT MEET THE REQUIREMENTS OF THE CIVIL RIGHTS ACT, AS THEY ARE PRINCIPALLY AIMED AT ACCOMODATION AND ONLY VAGUELY ON EMPLOYMENT.

OUR STATUTE ON "EQUAL PAY FOR EQUAL WORK" ONLY PERTAINS TO WOMEN AND NO PROTECTION FOR MEN.

THESE STATUTES ONLY PROVIDE A PENALTY OF MISDEMEANOR, AND THERE IS NOTHING ON AGE DISCRMINATION.

CONTRARY TO POPULAR BELIEF, DISCRIMINATION STILL EXISTS AS PERTAINS TO NATIONALITIES AND RELIGION.

PASSAGE OF THIS LEGISLATION WOULD ALLOW THE STATE TO ENFORCE THE CIVIL RIGHTS ACT BEFORE FEDERAL INTERVENTION.

ALLOW ME TO QUOTE A PARAGRAPH TAKEN FOR A SPEECH BY WILLIAM H. BROWN III

CHAIRMAN OF THE EQUAL OPPORTUNITY COMMISSION IN 1970 BEFORE A GROUP OF STATE AGENCIES FROM A MAJORITY OF THE VARIOUS STATES TITLED, "THE CRIME OF DISCRIMINATION: THE ROLE OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES, UNDER TITLE VII".

"THE CIVIL RIGHTS ACT MIGHT NEVER HAVE BEEN ENACTED IF YOUR AGENCIES HAD SUCCEEDED IN ELIMINATING EMPLOYMENT DISCRIMINATION. THE FACT OF ITS ENACTMENT IN 1964 WAS IN PART A MEASURE OF YOUR FAILURE. AT THE SAME TIME, THE CONGRESS PROVIDED THAT WHERE STATE AND LOCAL AGENCIES WILL DO A JOB AND NOT SHIRK THEIR RESPONSIBILITY, WE IN THE FEDERAL GOVERNMENT SHOULD LET THEM. CONGRESS ALSO MADE IT CLEAR, HOWEVER, THAT FEDERAL ENFORCEMENT SHOULD BE SWIFT AND FIRM WHERE STATE AGENCIES SHIRKED THEIR DUTY."

I STRONGLY RECOMMEND APPROVAL OF S.B. 697.

Yorig 2.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

OFFICE OF
THE CHAIRMAN

DEC 22 1972

Honorable Forrest H. Anderson
Governor of Montana
Helena, Montana

Dear Governor:

As you know, the Equal Employment Opportunity Act of 1972 contains numerous provisions applicable to State and Local Government officials. Specifically, Congress amended this law so that its provisions prohibiting discrimination in employment because of race, religion, sex, or national origin now apply to all agencies of state and local governments including educational institutions. In addition, it clarifies the relationship between this agency and state administrative agencies enforcing state legislation prohibiting discrimination in employment. The purpose of this letter is to summarize some of the provisions of that law and of our rules implementing it which may be of particular interest to state government agencies.

I am enclosing for your information a copy of the statute as amended, the rules we issued pursuant to it, and a form which an appropriate agency of your state government might use to request that we defer appropriate cases to it. The specific aspects of these materials that might be of interest to you include the following:

1. Voluntary compliance with the law:

   We will be developing programs to assist state and local government agencies to bring their practices in compliance with the law voluntarily. Many governors have already developed similar programs. I would appreciate it if you would forward to me copies of any plans you have implemented along these lines.

2. Deferral of cases to state FEPC agencies:

   Title VII requires that the Equal Employment Opportunity Commission give the states the first opportunity to identify and eliminate employment discrimination in the public and private sectors. Specifically, if there is a state anti-discrimination agency administering appropriate enforceable legislation we may not commence an investigation of a charge filed with us until 60 days after we have deferred the charge to the state agency.

Numerous amendments to the Federal Statute and many recent court decisions required a clarification of our procedures for identifying the agencies to which this deferral is required. I am enclosing a copy of our new rules spelling out these procedures. Specifically, they require that an agency desiring designation as a deferral or "706 Agency" (to use the term in the rules) must conduct a self-audit and then apply for such designation. The application must certify that the practices prohibited and remedies required by state law, both as written and as administered, are comparable in scope to the practices prohibited and the remedies required under Title VII of the Civil Rights Act of 1964, as amended.

This review of existing state legislation should not be limited to the basic fair employment practices statute prohibiting discrimination in employment. It should also include an examination of other statutes, such as the so-called protective legislation providing "special" working conditions for women, which legislation may contain real or apparent exemptions from the coverage of the state fair employment practices legislation which makes it, in fact, less comprehensive than it appears to be on its face. These state protective laws, if they are in conflict with Title VII have been held by a number of federal court decisions to be of no effect.

No agency in your state is presently administering legislation sufficient in our judgement, to be designated as a formal deferral "706 Agency". However, we have designated the Department of Labor and Industry as a "provisional notice" agency in order to receive information copies of charges and to allow that agency time to conduct a self-audit necessary and to apply for formal designation as a deferral "706 Agency". This designation as a "provisional notice" agency will continue until July 1. 1973. This date was selected because records available to us indicate that your legislation will have held one full legislative session by that date which would allow time for this agency to recommend and for you to seek and obtain any amendments to state law that might be necessary to justify full designation as a "706 Agency". If you have any questions concerning the nature of the appropriate amendments, please do not hesitate to get in touch with me. However, the enclosed copy of a recent communication to the head of that agency summarizes some of the matters.

Sincerely,

William H. Brown, III
Chairman

Enclosures: (2)
1 copy form
1 copy rules

CHAPTER NO. 524

AN ACT TO GENERALLY REVISE THE LAWS RELATING TO DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, EDUCATION, REAL PROPERTY LAW AND RELATING TO THE HUMAN RIGHTS COMMISSION; AMENDING SECTION 64-301, 64-305 THROUGH 64-312, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 64-301, R.C.M. 1947, is amended to read as follows:

"**64-301. Freedom from discrimination as civil right — employment — public accommodations.** The right to be free from discrimination because of race, creed, color, sex, physical *or mental* handicap, *age,* or national origin is recognized as and declared to be a civil right. This right shall include, but not be limited to:

(1) The right to obtain and hold employment without discrimination.

(2) The right to the full enjoyment of any of the accommodation facilities or privileges of any place of public resort, accommodation, assemblage or amusement."

Section 2. Section 64-305, R.C.M. 1947, is amended to read as follows:

"**64-305. Definitions.** As used in this act, unless the context requires otherwise:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Commission" means the commission for human rights provided for in section 82A-1015.

(3) "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, university, a business, nursing, professional, secretarial, technical or vocational school or an agent of an educational institution.

(4) "Employee" means any individual employed by an employer.

(5) "Employer" means an employer of one (1) or more persons but does not include a fraternal, charitable, or religious association or corporation, if the association or corporation is not organized for private profit; or to provide accommodation or services that are available on a nonmembership basis.

(6) "Employment agency" means a person undertaking to procure employees or opportunities to work.

(7) "Financial institution" means a commercial bank, trust company, mutual savings bank, co-operative bank, homestead association, finance company, mutual savings and loan association or an insurance company.

(8) "Housing accommodation" means a building or portion of a building, whether constructed or to be constructed, which is or will be used as the sleeping quarters of its occupants.

(9) "Labor organization" means an organization and an agent of the organization, organized for the purpose, in whole or in part, of collective bargaining, dealing with employers concerning grievances, terms of conditions of employment, or of other mutual aid protection of employees.

(10) "Mental handicap" means any mental disability resulting in subaverage intellectual functioning *or* impaired social competence.

(11) "National origin" means ancestry.

(12) "Person" means one (1) or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated employees, employers, employment agencies, or labor organizations.

(13) "Physical handicap" means any physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness, including epilepsy, and shall include without limitation any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog for the blind, wheelchair, or other remedial appliance or device.

(14) "Public accommodation" means a place which caters or offers its services, goods, or facilities to the general public including but not limited to a public inn, restaurant, eating house, hotel, roadhouse, place where food or spirituous or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, night club, trailer park, resort, campground, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company, hospital, and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons.

(15) "Staff" or "commission staff" means the staff of the human rights commission."

Section 3. Section 64-306, R.C.M. 1947, is amended to read as follows:

"64-306. Discriminatory practices described and prohibited. (1) It is an unlawful discriminatory practice for:

(a) an employer to refuse employment to a person, or to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, religion, *marital status,* color, or national origin or because of his age, physical or mental handicap or sex when the reasonable demands of the position do not require an age, physical or mental handicap or sex distinction;

(b) a labor organization, *or joint labor management committee controlling apprenticeship,* to exclude or expel *any person* from its membership, *or from an* apprenticeship or training program or to discriminate in any way against a member of, or an applicant to, the labor organization, or an employer or employee *because of race, marital status, religion, color or national origin or because of his age, physical or mental handicap or sex when the reasonable demands of the program do not require an age, physical or mental handicap or sex distinction*;

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication, or to use a form of application for employment, which expresses, directly or indirectly, a limitation, specification or discrimination as to sex, *marital status,* age, physical or mental handicap, race, creed, color, or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(d) an employment agency to *fail or refuse to refer for employment, to classify* or otherwise *to* discriminate against *any individual* because *of sex, marital status, age, physical or mental handicap, race, creed, color or national origin, unless based upon a bona fide occupational qualification;*

(e) the exceptions permitted in this subsection based on bona fide occupational qualifications, shall be strictly construed.

(2) It is an unlawful discriminatory practice for the owner, lessee, manager, agent, or employee of a public accommodation:

(a) to refuse, withhold from, or deny to a person any of its services, goods, facilities, advantages, or privileges because of sex, race, age, physical or mental handicap, religion, color, or national origin *unless based on reasonable grounds*;

(b) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any of the services, goods, facilities, advantages or privileges of the public accommodation will be refused, withheld from or denied to a person of a certain race, religion, sex, age, physical or mental handicap, color or national origin except when the distinction is based on reasonable grounds.

(3) It is an unlawful discriminatory practice for the owner, lessee, manager or other person having the right to sell, lease, or rent a housing accommodation or improved or unimproved property:

(a) to refuse to sell, lease, or rent the housing accommodation or property to a person because of sex, race, religion, color, age, physical or mental handicap, or national origin, except when the distinction is based on reasonable grounds;

(b) to discriminate against a person because of sex, race, religion, age, physical or mental handicap, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of a housing accommodation or improved or unimproved property, except when the distinction is based on reasonable grounds; or

(c) to make a written or oral inquiry or record of the sex, race, religion, age, physical or mental handicap, color, or national origin of a person seeking to buy, lease, or rent a housing accommodation or improved or unimproved property, except when the distinction is based on reasonable grounds. *A* private residence designed for single family occupancy, in which sleeping space is rented to guests in the family home in which the landlord also resides, *shall* be excluded from the provisions of this act.

(4) It is an unlawful discriminatory practice for a financial institution, upon receiving an application for financial assistance to permit an official or employee during the execution of his duties to discriminate against the applicant because of sex, *marital status,* race, religion, age, physical or mental handicap, color, or national origin in a term, condition or privilege relating to the obtainment or use of the institution's financial assistance *unless based on reasonable grounds.*

(5) It is an unlawful discriminatory practice for the state or any of its political subdivisions:

(a) to refuse, withhold from, or deny to a person any local, state, or federal funds, services, goods, facilities, advantages, or privileges because of race, religion, sex, *marital status,* color, age, physical or mental handicap, or national origin *unless based on reasonable grounds*;

(b) to publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement which states or implies that any local, state, or federal funds, services, goods, facilities, advantages, or privileges of the office or agency will be refused, withheld from, or denied to a person of a certain race, religion, sex, *marital status,* color, age, physical or mental handicap, or national origin or that the patronage of a person belonging to a particular race, creed, sex, *marital status,* color, or certain age or national origin or possessing a physical or mental handicap, is unwelcome, or not desired or solicited *unless based on reasonable grounds;*

(c) to refuse employment to a person, or to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his political beliefs. However, this prohibition does not apply to policy-making positions on the immediate staff of an elected officer of the executive branch provided for in article VI, section 1, of the Montana constitution, to the appointment by the governor of a director of a principal department provided for in article VI, section 7, of the Montana constitution, *or to the immediate staff of the majority and minority leadership of the Montana legislature.*

(6) It is an unlawful discriminatory practice for an educational institution:

(a) to exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, condition, and privileges of the institution because of race, *religion, sex, marital status,* color, age, physical handicap, or national origin or because of mental handicap unless based on reasonable grounds;

(b) to make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, concerning the race, color, *sex, marital status, age,* religion, physical or mental handicap, or national origin of an applicant for admission, except as permitted by regulations of the commission;

(c) to print, publish, or cause to be printed or published a catalog or other notice or advertisement indicating a limitation, specification, or discrimination based on the race, color, religion, age, physical or mental handicap, sex, *marital status,* or national origin of an applicant for admission; or

(d) to announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members because of race, color, *sex, marital status, age,* religion, physical or mental handicap, or national origin.

(7) It is an unlawful discriminatory practice for a person to discharge, expel, blacklist, or otherwise discriminate against an individual because he has opposed any practices forbidden under this act or because he has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this act.

(8) Any grounds urged as a "reasonable" basis for an exemption under any section of this act shall be strictly construed."

Section 4. There is a new R.C.M. section numbered 64-306.1 that reads as follows:

64-306.1. Exemptions — records. (1) A person who seeks to be exempted from the requirements of section 64-306 may petition the commission for a declaratory ruling as provided in section 82-4218 of the Montana Administrative Procedure Act. If the commission finds that reasonable grounds for granting an exemption exist it may issue a ruling exempting the petitioner from the particular provision. This section, however, shall be strictly construed and the burden shall be on the petitioner to demonstrate that an exemption should be granted.

(2) The state, employers, labor organizations, and employment agencies shall maintain records on age, sex, and race that are required to administer the civil rights law and regulations. These records are confidential and available only to federal and state personnel legally charged with administering federal civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall be made available to the general public.

Section 5. Section 64-307, R.C.M. 1947, is amended to read as follows:

"64-307. Discrimination justified — when. (1) Sex, *marital status,* age, physical or mental handicap, race, religion, color or national origin may not comprise justification for discrimination unless the nature of the service requires the discrimination for the legally demonstrable purposes of correcting a previous discriminatory practice.

(2) Separate lavatory, bathing or dressing facilities based on the distinction of sex may be maintained for the purpose of modesty or privacy."

Section 6. Section 64-308, R.C.M. 1947, is amended to read as follows:

"**64-308. Complaint — how filed — by whom.** (1) A *complaint may be filed by or on behalf of any person claiming to be aggrieved by any discriminatory practice prohibited by this act. The complaint shall be in the form of a written, verified complaint stating the name and address of the person alleged to have engaged in the discriminatory practice and the particulars of the alleged discriminatory practice.* The *commission staff* may file a complaint in like manner when a discriminatory practice comes to its attention. *A complaint under this act must be filed with the commission within one hundred eighty (180) days after the alleged unlawful discriminatory practice occurred or was discovered. Any complaint not filed within the time set forth herein may not be considered by the commission.*

(2) The *staff* shall notify the commission in writing of all complaints filed with the *commission.* The commission shall meet a minimum of four (4) times a year to hear and act upon all complaints filed. *In addition the commission may appoint hearing examiners to hear contested cases and petitions for declaratory rulings.*

(3) At any time after a complaint is filed under this act, alleging an unlawful discriminatory practice, the commission may file a petition in the district court in the county in which the subject of the complaint occurs, or in the county in which a respondent resides or transacts business, seeking appropriate temporary relief against this practice, including an order restraining the respondent from interfering in any manner with an order the commission may enter with respect to the complaint. The court has the power to grant the temporary relief or restraining order it considers just and proper. However, no relief or order extending beyond fourteen (14) days may be granted except by consent of the respondent *or* upon a finding by the court that there is reasonable cause to believe that the respondent has engaged in discriminatory practices.

(4) The *commission staff* shall informally investigate the matters set out in a filed complaint promptly and impartially. If the *staff* determines that the allegations are supported by substantial evidence, it shall immediately try to eliminate the discriminatory practice by conference, conciliation, and persuasion.

(5) If the informal efforts to eliminate the alleged discrimination are unsuccessful, the *staff* shall inform the commission of the failure and the commission shall cause written notice to be served together with a copy of the complaint, requiring the person, employer, business, corporation or agency charged in the complaint to answer the allegations of the complaint at a hearing before the commission. The hearing shall be held by the commission in the county where the unlawful conduct is alleged to have occurred unless the person, employer, business, corporation, organization, agency or the commission requests a change of venue for good cause shown. The case in support of the complaint may be presented before the commission by the *staff,* the complainant or by an attorney representing the complainant. The hearing and any subsequent proceedings under the act except as permitted under section 64-310 shall be held in accordance with the Montana Administrative Procedure Act.

(6) The commission may make provision for defraying the expenses of any indigent party in a contested hearing held pursuant to this act."

Section 7. Section 64-309, R.C.M. 1947, is amended to read as follows:

"**64-309. Power of commission on finding of discrimination.** (1) If the commission finds that a person against whom a complaint was filed has engaged in the discriminatory practice alleged in the complaint, it shall order him to refrain from engaging in the discriminatory conduct. The order may:

(a) prescribe conditions on the accused's future conduct relevant to the type of discriminatory practice found;

(b) require any reasonable measure to correct the discriminatory practice and to rectify any harm, pecuniary or otherwise, to the person discriminated against;

(c) require a report on the manner of compliance.

(2) The order may not require the payment of any punitive damages as defined by the Revised Codes of Montana.

(3) If the commission finds that a person against whom a complaint was filed has not engaged in the discriminatory practice alleged in the complaint, it shall issue and cause to be served on the complainant an order dismissing the complaint.

(4) Whenever a commission order or conciliation agreement requires inspection by the commission staff for a period of time to determine if the respondent is complying with that order or agreement, the period of time shall be no more than three (3) years."

Section 8. Section 64-310, R.C.M. 1947, is amended to read as follows:

"**64-310. Injunction to enforce commission order.** *If the commission's order is not obeyed, the commission staff shall* petition the district court in the county where the discriminatory practice occurred or in which the respondent resides or transacts business to enforce the commission's order by injunction."

Section 9. Section 64-311, R.C.M. 1947, is amended to read as follows:

"**64-311. Staff may include attorney.** (1) The *staff* may *include* an attorney as legal counsel. He shall advise the commission in legal matters arising in the discharge of its duties, shall assist in the preparation and presentation of complaints to the commission, and shall represent the commission in legal actions to which it is a party. The attorney general shall perform this function at the request of the commission."

Section 10. Section 64-312, R.C.M. 1947, is amended to read as follows:

"**64-312. Unlawful to violate act — penalty.** (1) It is unlawful for a person to aid, abet, incite, compel or coerce the doing of an act forbidden under this act or to attempt to do so.

(2) No person or institution may discharge or discriminate against any *other person* because he or she has made a complaint, assisted with an investigation or *proceeding under this act or in any other manner opposed any practice made unlawful under this act.*

(3) A person, employer, business, organization, corporation or agency, both public and private, who or which willfully engages in an unlawful discriminatory practice prohibited by this act or willfully resists, prevents, impedes, or interferes with the commission, the department or any of its authorized representatives in the performance of duty under this act or who or which willfully violates an order of the commission or violates this act in any other manner, is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars ($500) or by imprisonment for not more than six (6) months or both."

Section 11. There is a new R.C.M. section numbered 64-313 that reads as follows:

64-313. Powers of commission — subpoena. (1) The commission may subpoena witnesses, take the testimony of any person under oath, administer oaths and in connection therewith, require the production for examination of books, papers, or other tangible evidence relating to a matter either under investigation by the commission staff or in question before the commission. The commission may delegate the foregoing powers to a person within the staff for the purpose of investigating a complaint.

(2) Subpoenas issued pursuant to this section may be enforced as provided in section 82-4220 of the Montana Administrative Procedure Act.

Section 12. There is a new R.C.M. section numbered 64-314 that reads as follows:

64-314. Commission may require notice. The commission may require any employer, employment agency, labor union, educational institution, financial institution, or the owner, lessee, manager, agent, or employee of any public accommodation or housing accommodation subject to this act to post in a conspicuous place on his premises or in the accommodation, a notice to be prepared or approved by the commission containing relevant information that the commission deems necessary to explain the act. Any person subject to this section refusing to comply with an order of the commission respecting the posting of notice is guilty of a misdemeanor, punishable by a fine of not more than fifty dollars ($50).

Section 13. There is a new R.C.M. section numbered 64-315 that reads as follows:

64-315. Commission to adopt rules. The commission shall adopt procedural and substantive rules necessary to implement this act. Rule making procedures shall comply with the requirements of the Montana Administrative Procedure Act.

Approved April 29, 1975.